



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 175372

PRELIMINARY RECITALS

Pursuant to a petition filed on July 6, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Walworth County Department of Human Services regarding FoodShare benefits (FS), a hearing was held on August 16, 2016, by telephone.

The issue for determination is whether the agency correctly determined the petitioner's monthly FoodShare (FS) allotment for July 2016.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]

Walworth County Department of Human Services
W4051 County Rd NN
Elkhorn, WI 53121-1006

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Walworth County. The petitioner is a household size of three.

2. The petitioner completed an annual review for her FoodShare (FS) benefits in June 2016. Part of the review required the petitioner to verify her income with either 30 days of paystubs or an employer verification of earnings form completed by her employer.
3. On June 28, 2016 the petitioner's employer submitted the employer verification of earnings form. The form stated that the petitioner worked 32 hours per week earning \$11.75 per hour. The agency updated the petitioner's FS benefits to reflect this updated income. This caused the petitioner's monthly FS benefits to decrease to \$192 per month.
4. On July 1, 2016 the agency sent the petitioner a notice stating that her monthly FS benefits would decrease to \$192 effective July 1, 2016.
5. On that same date the petitioner contacted the agency to determine the reason that her FS benefits had decreased. The agency explained that the increase in income, as reported by the petitioner's employer, caused her FS benefits to decrease. The petitioner said that the employer verification of earnings form was incorrect.
6. In July 2016 the petitioner provided paystubs showing that her income had not increased.
7. On July 6, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.
8. On July 7, 2016 the agency sent the petitioner a notice stating that effective August 1, 2016 her monthly FS benefits would increase from \$192 to \$337.

DISCUSSION

The agency is required to verify income during the certification period. *FS Wisconsin Handbook (FSWH)*, 1.2.4.2. The agency may verify income through paystubs or the employer verification of earnings form. *Id.* The agency then uses this verified information to calculate a household's monthly FS benefits. *FSWH*, 1.2.1.1.

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 3 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii). All reported changes that cause an increase in the FS benefits are effective the month following the report month. *FSWH*, 6.1.3.3.

In this case the agency correctly calculated the petitioner's July 2016 FS benefits. Although the FS benefits for July decreased because the petitioner's employer over reported her employment hours, the agency must rely on the verification provided. The petitioner could have provided pay stubs, but instead provided an employer verification of earnings form. Once she learned that her FS benefits were decreasing, she provided paystubs, and reported a decrease in income. This was a change reported in July, which caused her FS benefits to increase effective August 1, 2016. The petitioner did not dispute any other area of the FS calculations. Nonetheless, I reviewed the calculations, which are correct.

CONCLUSIONS OF LAW

The agency correctly determined the petitioner's monthly FoodShare (FS) allotment for July 2016.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of August, 2016

\s _____
Corinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 22, 2016.

Walworth County Department of Human Services
Division of Health Care Access and Accountability